

Senate File 304 - Introduced

SENATE FILE 304
BY SODDERS

A BILL FOR

1 An Act creating a child and school communication protection
2 registry, providing for a fee, creating a fund, providing an
3 appropriation, and providing a penalty.
4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. NEW SECTION. 82.1 Title and purpose — rules of
2 construction.

3 1. This chapter shall be known and may be cited as the "*Iowa*
4 *Child and School Communication Protection Registry Act*".

5 2. The purpose of this chapter is to provide safeguards
6 to prevent certain messages regarding tobacco, alcohol,
7 pornography, gambling, illegal drugs, and other illegal
8 products from reaching the minor children of this state.

9 3. This chapter shall be construed broadly to effectuate
10 its purposes.

11 Sec. 2. NEW SECTION. 82.2 Definitions.

12 As used in this chapter, unless the context otherwise
13 requires:

14 1. "*Contact point*" means any electronic identification to
15 which messages can be sent, including but not limited to any
16 of the following:

17 a. An instant message identity.

18 b. A wireless telephone, a personal digital assistant, a
19 pager, or any other similar wireless communication device.

20 c. A facsimile machine.

21 d. An electronic mail address.

22 e. An internet domain name.

23 f. Other electronic means of receiving messages, as
24 described in rules promulgated by the department pursuant to
25 chapter 17A.

26 2. "*Department*" means the department of public safety.

27 3. "*Internet domain name*" means a globally unique,
28 hierarchical reference to an internet host or service, assigned
29 through centralized internet authorities, comprising a series
30 of character strings separated by periods, with the right-most
31 string specifying the top of the hierarchy.

32 4. "*Minor*" means an individual under the age of eighteen
33 years.

34 5. "*Registry*" means the child and school communication
35 protection registry established under section 82.3.

1 6. "School" means any entity whose primary responsibility
2 is serving children, including but not limited to camps,
3 day care facilities, preschool facilities, and public or
4 private institutions that provide teaching for any grade from
5 kindergarten through grade twelve.

6 Sec. 3. NEW SECTION. **82.3 Child and school communication**
7 **protection registry — establishment, operation, and fees.**

8 1. The department shall establish and operate the child
9 and school communication protection registry. The department
10 shall establish procedures to prevent, to the extent possible,
11 the use or disclosure of protected contact points or internet
12 domain names.

13 2. A parent, guardian, individual, or school, that is
14 responsible for a contact point to which a minor may have
15 access, may register that contact point with the department
16 pursuant to rules promulgated by the department. The
17 department shall establish procedures to ensure that a
18 registrant meets the requirements of this subsection.

19 3. A registration under this section shall be for not more
20 than three years. However, if the contact point is established
21 for a specific minor, the registration expires the year the
22 minor turns eighteen years of age. A registration can be
23 terminated or renewed by the registrant upon notification to
24 the department.

25 4. A school may register one or more contact points with the
26 department. A school may make a registration for all contact
27 points of the school, including the contact points of clients
28 or students of the school, and the registration may include the
29 school's internet domain name.

30 5. The department shall not assess, and a registrant shall
31 not incur, a fee or charge for registering a contact point.

32 Sec. 4. NEW SECTION. **82.4 Child and school communication**
33 **protection registry fund — creation.**

34 1. The child and school communication protection registry
35 fund is created as a separate fund in the state treasury and

1 administered by the department. Fees collected and penalties
2 paid under this chapter shall be deposited into the fund.

3 2. The moneys in the fund are appropriated to the department
4 and shall be used by the department for the purposes of
5 administering this chapter and for the investigation and
6 enforcement of the provisions of this chapter.

7 3. Notwithstanding section 8.33, moneys credited to the
8 fund shall not revert to the general fund at the end of the
9 fiscal year but shall remain in the fund. Notwithstanding
10 section 12C.7, interest or earnings deposited in the fund shall
11 be credited to the fund.

12 Sec. 5. NEW SECTION. **82.5 Prohibited activity.**

13 1. Except as otherwise provided under this section and
14 section 82.6, a person shall not send, cause to be sent, or
15 conspire with a third party to send a message to a contact
16 point that has been registered for more than thirty calendar
17 days with the department if the primary purpose of the message
18 is to, directly or indirectly, advertise or otherwise link to
19 a message that advertises a product or service that a minor
20 is prohibited by law from purchasing, viewing, possessing,
21 participating in, or otherwise receiving.

22 2. A person does not violate this chapter because the person
23 unknowingly and indirectly provides transmission of messages
24 described in subsection 1 over the person's computer network or
25 contact point to a contact point registered under this chapter.

26 3. The consent of a minor or third party to receive the
27 message is not a defense to a violation of this section.

28 Sec. 6. NEW SECTION. **82.6 Exception from the general**
29 **prohibition.**

30 1. The sending of a message described in section 82.5 is
31 not prohibited if prior to sending the message the sender has
32 obtained from the intended receiver verification that the
33 intended receiver is eighteen years of age or older and an
34 affirmative statement of consent to receive the message at the
35 contact point designated by the intended receiver. To comply

1 with this subsection, the sender shall do all of the following:

2 *a.* Verify that the person making the affirmative statement
3 is of legal age by inspecting, in a face-to-face transaction, a
4 valid government-issued photo identification with proof of age.

5 *b.* Obtain a written record stating that the recipient has
6 consented to receive the type of messages described in section
7 82.5. The consent form required under this paragraph shall be
8 signed by the recipient. The sender shall retain the consent
9 form required under this paragraph and make it available for
10 verification.

11 *c.* All messages allowed under this subsection shall include
12 notice to the recipient that the recipient may rescind consent
13 and provide an opportunity for the recipient to, in a single
14 declination, decline to receive any future messages.

15 *d.* After complying with paragraphs "a" through "c", notify
16 the department that the sender intends to send messages as
17 allowed under this subsection. The department may adopt
18 procedures to verify that the sender is in compliance with this
19 subsection.

20 2. The consent of a minor or third party to receive the
21 message is not a defense to a violation of this section.

22 3. The department shall establish a mechanism for senders to
23 verify their compliance with the registry restrictions.

24 4. *a.* A person desiring to send a message described in
25 section 82.5 shall pay the department a fee, established
26 in rule for access to the verification mechanism. The fee
27 required under this subsection shall be set by the department,
28 not to exceed three cents per contact point.

29 *b.* The fees collected under this subsection shall be
30 credited to the fund created under section 82.4.

31 Sec. 7. NEW SECTION. **82.7 Release of information.**

32 Notwithstanding chapter 22, information contained in the
33 registry shall be kept confidential.

34 Sec. 8. NEW SECTION. **82.8 Penalties.**

35 1. The department may assess a civil penalty for violation

1 of this chapter not to exceed twenty-five thousand dollars
2 per violation. Penalties collected under this section shall
3 be credited to the child and school communication protection
4 registry fund created under section 82.4.

5 2. Before assessing a penalty under this section, the
6 department shall provide written notice and the opportunity
7 to request a contested case hearing. The hearing must be
8 requested within thirty days of the date provided in the notice
9 for the assessment of the penalty and shall be conducted as
10 provided in chapter 17A.

11 3. A person aggrieved by the imposition of a civil penalty
12 under this section may seek judicial review in accordance with
13 section 17A.19.

14 4. The department shall notify the attorney general of the
15 failure to pay a civil penalty within thirty days of final
16 agency action, or within ten days following final judgment in
17 favor of the department if an order has been stayed pending
18 judicial review. The attorney general may commence an action
19 to recover the amount of the penalty, including reasonable
20 attorney fees and costs.

21 **Sec. 9. NEW SECTION. 82.9 Investigation of certain business**
22 **transactions.**

23 1. If the department has reason to believe that a person
24 operating a business has violated this chapter, the department
25 may investigate the business transactions of that person.
26 The department may require the attendance and testimony of
27 witnesses and the production of evidence under oath and the
28 production of such documents, all as are necessary to determine
29 whether the person is in compliance with the requirements of
30 this chapter.

31 2. Investigative subpoenas shall be enforced as provided in
32 section 17A.13.

33 3. Witnesses shall be paid the same fees and mileage that
34 are paid witnesses in the district courts of this state.

35

EXPLANATION

1 This bill creates a program to prevent certain electronic
2 messages regarding tobacco, alcohol, pornography, gambling,
3 illegal drugs, and other illegal products from reaching the
4 minor children of this state. The bill is to be construed
5 broadly to effectuate its purposes.

6 The bill creates a child and school communication protection
7 registry within the department of public safety. A parent,
8 guardian, individual, or school that is responsible for a
9 contact point to which a minor may have access may register
10 that contact point with the department. "School" and "contact
11 point" are defined in the bill.

12 The bill prohibits any person from sending an electronic
13 message to a registered contact point of a computer or wireless
14 communication device if the primary purpose of the message is
15 to advertise or otherwise link to a message that advertises
16 a product or service that a minor is prohibited by law from
17 purchasing, viewing, possessing, participating in, or otherwise
18 receiving. The bill provides an exception for persons wishing
19 to send such messages to a consenting adult who verifies
20 their age and if the sender complies with other requirements
21 specified in the bill. Senders may check the registry to
22 ensure verification compliance. The department may charge a
23 fee, not to exceed 3 cents per contact point.

24 The bill authorizes the department to investigate the
25 business transactions of a person operating a business that
26 sends such messages under this exception if the department
27 has reason to believe that person has violated the provisions
28 of this bill. The department has the authority to issue
29 investigative subpoenas.

30 The department may assess a civil penalty for violation of
31 new Code chapter 82, not to exceed \$25,000 per violation.

32 The bill creates the child and school communication
33 protection registry fund, administered by the department. All
34 fees and penalties are deposited into the fund, to be used
35 for the purposes of administering the program and for the

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1 investigation and enforcement of the program. The moneys and
2 interest in the fund do not revert to the general fund of the
3 state.